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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,810	08/25/2003	Naoki Imachi	SNY-039	1318

20374 7590 08/30/2007
KUBOVCIK & KUBOVCIK
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WASHINGTON, DC 20006

EXAMINER

CHU, HELEN OK

ART UNIT	PAPER NUMBER
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1745

MAIL DATE	DELIVERY MODE
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08/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/646,810

Applicant(s)

IMACHI ET AL.

Examiner

Helen O. Chu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/16/07; 7/6/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's Amendment was received on March 19, 2007. Claim 1 has been amended.
2. The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 19, 2007 has been entered.

Election/Restrictions

4. Applicant's election without traverse of 1,3-dioxolane in the reply filed on 7/6/2007 is acknowledged.

Claim Rejections - 35 USC § 102/103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 9-12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yoshimura et al. (US Publication 2002/0051910).

In regard to claim 1, the Yoshimura et al. reference discloses a lithium secondary battery with a positive electrode, a negative electrode, a polyethylene separator (Paragraph 46) and a nonaqueous solvent to be ethylene carbonate, gamma-butyrolactone and 1,3 dioxolane (Paragraph 17). Furthermore, since the wettability improving agent is the same as that of the Applicant's invention, the physical properties and characteristics must inherently be the same as the Applicant's invention such as an oxidative decomposition potential in a range of 4.5 V to 6.2 V based on the potential of a lithium reference electrode, oxidative decomposition potential of the wettability improving agent is smaller than that of the nonaqueous solvent and reductive decomposition potential of the wettability improving agent is not greater than 0.0 V.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-8, 13-16 are rejected under 35 U.S.C. 103(a) as obvious over Yoshimura et al. (US Publication 2002/0051910).

The Yoshimura et al. reference discloses the invention above and further incorporated herein. Further it would have been obvious to one of ordinary skill to vary the mass ratio of different solvents such as 0% of 1,3- dioxolane or even under 3% mass ratio of the total electrolyte solvents to choose the instantly claimed value through process optimization, since it has been held that the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable values involve only routine skill in the art. See *In re Boesch*, 205 USPQ 215 (CCPA 1980).

Furthermore, it would be inherent that the reductive decomposition potential of the wettability improving agent is no greater than 0.0V because this is only a reference state and that the intrinsic properties of the wettability agent 1,3-dioxolane has a decomposition potential of 4.5-6.2 V or 4.8 - 5.2 V.

9. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamoto et al (US Publication 2002/0039677 A1) in view of Kim et al. (US 2003/0073005 A1).

In regards to claim 1-16, the Iwamoto et al reference teaches a non-aqueous electrolyte secondary battery (Paragraph 3) with a polyethylene separator (Paragraph 104), an electrolytic solution made of ethylene carbonate and a gamma-butyrolactone solvent (Paragraph 115). Though the Iwamoto et al. reference also discloses a solvent for electrolytes can be 1,3-dioxolane, the Iwamoto et al. reference does not disclose the

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use of 1,3-dioxolane in combination with ethylene carbonate and gamma, butyrolactone. However, the Kim et al. reference discloses electrolyte for a lithium battery to include dioxolane of 0-30% volume of the total electrolyte (Paragraph 35). The Kim et al. reference further discloses the dioxolane is used as a lithium protective solvent (Paragraph 42), these protective solvents are used to provide the surface of lithium metal with a good protective layer (Paragraph 39). Therefore it would have been obvious to one of ordinary skill at the time the invention was made to incorporate dioxolane in 0-30% by volume of the total electrolyte as disclosed by Kim et al. into the lithium non-aqueous electrolyte secondary battery as disclosed by Iwamoto et al. in order to produce a battery capable of showing a good cycle efficiency.

Furthermore, it would be inherent that the reductive decomposition potential of the wettability improving agent is no greater than 0.0V because this is only a reference state and that the intrinsic properties of the wettability agent 1,3-dioxolane has a decomposition potential of 4.5-6.2 V or 4.8 - 5.2 V.

Response to Arguments

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen O. Chu whose telephone number is (571) 272-5162. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HOC


TRACY DOVE
PRIMARY EXAMINER

8/07